STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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February 1, 2008

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Suite TW-A325
Washington, DC 205554

Re: Comments of the New York State Department of Public Service in WC Docket No. 07-273; In the Matter of Petition of Verizon for Forbearance Under 47 U.S.C. § 160(c) from Enforcement of Certain of the Commission's Recordkeeping and Reporting Requirements

Dear Secretary Dortch:

The following comments are respectfully submitted on behalf of the New York State Public Service Commission (NYPSC) in the Federal Communications Commission's (FCC) above-referenced docket on Verizon's Petition seeking forbearance. As discussed in more detail below, the FCC should reject Verizon's request. Specifically, Verizon seeks forbearance from the FCC's Automated Reporting Management Information System (ARMIS), Affiliate Transaction, Rate-of-Return and Property Record rules. It further requests that states be precluded from having inconsistent reporting requirements. Granting Verizon's request would preclude the FCC, the NYPSC and the public from obtaining information necessary to engage in meaningful oversight and review of Verizon's transactions and practices. Accordingly, under 47 U.S.C. § 160(b), the Petition is not in the public interest and should be denied.

These reporting requirements have traditionally supported a variety of regulatory uses at the state and federal level. The NYPSC has used this information in several prior proceedings that included setting rates for special access and unbundled network elements (UNEs). ARMIS data continues to be an essential tool in evaluating competition and Verizon's intrastate rates and practices as well as other regulatory functions. Without this information, it would be difficult to appropriately assess Verizon's market dominance, thus limiting the NYPSC's ability to make informed decisions. Most recently, for example, the NYPSC, and many parties thereto, relied on ARMIS data in analyzing Verizon's New York business markets and line losses pursuant to a request for pricing flexibility by Verizon.[1] Similarly, the NYPSC relied on ARMIS data in the MCI/VZ merger to assess, among other things the likely impact of the merger upon operating revenues, business practices and access line levels.[2] On the federal side, the Triennial Review Remand Order (TRRO) triggers rely on ARMIS data to establish line counts.

Moreover, the use of Affiliate Transaction, Property Record and Rate-of-Return reporting rules continue to be useful in advancing other NYPSC regulatory mandates. These rules are helpful in determining whether Verizon is cross-subsidizing its unregulated activities with its regulated offerings to the detriment of its New York customers. Verizon, for example, is currently offering video in many downstate markets in New York and these rules are useful to monitor Verizon's activities in this highly competitive market and ensure that its legacy network is not overlooked. Additionally, we continue to monitor Verizon's service quality and network reliability. Fulfilling these responsibilities will be more difficult if we don't have the information provided as a result of these rules.

However, if the FCC is inclined to proceed with Verizon's request, then at a minimum, the request should be referred to the Federal-State Joint Board for additional review. This forbearance request on behalf of Verizon is complex and impacts both state and federal regulators. As such, the NYPSC as well as other parties should be given additional opportunity to review and analyze those impacts

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[1] Cases 06-C-0897 and 07-C-0610, Pricing Flexibility for Verizon's Business Services and Further Amended Tariff Filing of Verizon New York Inc. to Implement Pricing Flexibility for Non-Basic Services, Order Denying Request for 25% Pricing Flexibility and Allowing for a 10% Increase to Certain Business Rates (issued January 17, 2008).

[2] Case 05-C-0237, Joint Petition of Verizon Communications Inc. and MCI, Inc. for a Declaratory Ruling Disclaiming Jurisdiction Over or in the Alternative for Approval of Agreement and Plan for Merger, Order Asserting Jurisdiction and Approving Merger Subject to Conditions (issued November 22, 2005).

and the forbearance process is an inappropriate vehicle in which to do so. Additional state and federal feedback is needed in order to give proper perspective.

Finally, and notwithstanding the foregoing, assuming *arguendo* that the FCC grants Verizon's request for forbearance, it should make clear that states are not lawfully precluded from exercising their own recordkeeping or reporting requirements. The advantages of recordkeeping for intrastate regulatory initiatives and proceedings cannot, as a matter of law, be precluded as Verizon has suggested because intrastate reporting and record keeping are a specific state function that does not conflict with federal standards and are necessary for states to continue to fulfill their independent regulatory mandates. In this regard, we note that New York State Public Service Law (PSL) allows for reporting and recordkeeping and Verizon submits information and data to the NYPSC on a regular basis. These information and data are extremely important in monitoring and evaluating competition, service quality and other regulatory concerns.

In sum, the NYPSC requests that the FCC deny Verizon's request that the FCC forbear from certain recordkeeping and reporting rules.

Respectfully submitted,

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